

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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TRANSFER CMP.NO.484 OF 2015

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ORDER:

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This transfer C.M.P. is filed by the petitioners seeking to transfer O.P.No.36 of 2015 from the file of Judge, Family Court, Nizamabad to the file of Judge, Family Court, Hyderabad or Secunderabad

The case of the petitioners is, O.P.No.36 of 2015 pending on the file of Judge, Family Court at Nizamabad is filed by the first respondent under Section 7(10) of Guardian & Wards Act (for short 'the Act') read with Section 15 of the Act, for declaring R-1 as guardian of her two minor children, namely, Jyothsna and Shashank who are in the custody of the petitioners, who are her father-in-law and mother-in-law. The first respondent is the legally wedded wife of deceased S.Shiva Shankar and their marriage was performed on 15.01.2007 at Nizamabad and her deceased husband was working as Mechanic in APSRTC, at Chengicherla Bus Depot and died on 15.06.2014 by hanging, leaving the first respondent and her two minor children. The police have registered a case against the first respondent at Lallaguda police station, Secunderabad and issued FIR No.96/2014 under Section 306 I.P.C. Since then, their grand son and grand-daughter are living with them. It is stated that the petitioners are suffering with B.P. and Sugar and they need regular medicines. After the death of their son, their grand-children are staying with them at Sanathnagar, Secunderabad and it is difficult for them to travel all the way from Secunderabad to Nizamabad, which is morethan 200 kms., away to Secunderabad. It is also stated that a criminal case is also pending against the first respondent on the file of X Additional Metropolitan Magistrate, Secunderabad and sought to transfer the said O.P., from Nizamabad to any Family Court at Hyderabad or Secunderabad.

Heard the learned counsel for the petitioners and the learned counsel for the first respondent.

The learned counsel for the first respondent opposed the transfer of O.P.No.36 of 2015 stating that she cannot travel all the way from Nizamabad to Secunderabad and she has no means to bear the travelling expenses and that the petitioners are enjoying the death benefits arising out of the death of her husband.

In this case, it has to be seen that charge sheet is filed against the first respondent and the same is numbered and committed to X Additional Metropolitan Magistrate Court, Secunderabad and the said fact is not disputed by the first respondent. The fact that the children are staying at Secunderabad, along with her in-laws is also not disputed. The facts and circumstances of the case also go to show that the petitioners are bearing the expenses of their grand-children, who are the children of first respondent. Any how, the first respondent has to attend the criminal case and she also has to visit Secunderabad for seeing her children, who are staying at Hyderabad.

In view of the above facts and circumstances, I feel it just and proper to transfer O.P.No.36 of 2015, pending on the file of Judge, Family Court, Nizamabad, to the file of Family Court, Secunderabad.

The Transfer C.M.P., is accordingly allowed. However, since the first respondent states that she has no means for travelling all the way from Nizamabad to Secunderabad, the petitioners shall bear the expenditure of the first respondent on each and every date, when the respondent attends the Family Court at Secunderabad, for defending O.P.No.36 of 2015. Since the relationship between both the parties is not disputed, the petitioners shall permit the first respondent to visit the children without any obstruction. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY, J

Dt.10.12.2015

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